

## Bond Michelle D

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**From:** Tim Hugo <tim.hugo@capnet.org>  
**Sent:** Thursday, October 18, 2018 6:21 AM  
**To:** Tim Hugo; Corbin Kenneth C; Fox Diane - ATSC; Alito David P; Clifford James P; Rueter Curtis W; Vickie Hull  
**Cc:** Steve Ryan; David Ransom  
**Subject:** FFA: Proposed MOU changes for discussion  
**Attachments:** FFA Proposed Reforms.pdf

Ken and IRS Leadership Team:

Attached is a summary of the proposed FFA MOU changes.

We appreciate your consideration and look forward to our discussion today at 3:00 pm.

If you have any questions or concerns, please do not hesitate us.

Best regards,

Tim Hugo

Free File Alliance

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**TimHugo**

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## **Pro-Active Measures to Increase Volume and Strengthen Consumer Confidence in the IRS Free File Program**

- **Eliminating the value-add button.** Free File members agree that they will eliminate any button or link on their Free File landing pages that would take a taxpayer to information, descriptions or offers about or for non-Free File commercial products or services of any kind. This proposal is intended to help increase volume in the Free File Program and to eliminate any potential taxpayer confusion regarding whether a service offer is free or part of the Free File Program. Further, this proposal is intended to address the misleading suggestion that Free File is designed to “upsell” taxpayers commercial products or services.

*[Paragraphs 1.20, 1.24 and 1.25 of the current MOU regarding a member’s commercial products and the “value added button” would be deleted. We also would propose a new Paragraph in the MOU explicitly prohibiting the value added button.]*

- **Requiring the content of follow-up email(s) to taxpayers to be about Free File.** In 2002, Free File members and the IRS agreed that members could send one pre-filing email to a taxpayer who used Free File in the preceding year to communicate with them about the upcoming tax season. Going forward, Free File members shall communicate not less than once via email with taxpayers who used their Free File services in the preceding year prior to the opening of the following tax-filing season, with the requirement that this email(s) shall *only* remind the taxpayer about the availability of the member’s Free File offer and invite them to return to Free File. Free File members will be prohibited from using this email(s) to communicate with the taxpayer about any non-Free File commercial product or service. No marketing, soliciting, sales or selling activity, or electronic links to such activity, will be permitted, with the exception of the disclosure of free or paid state tax preparation offers as expressly provided in the MOU. This email(s) communication with past Free File users will now be a requirement of member participation in the Program. This improvement is intended to: 1) increase awareness and usage of the Free File Program; and 2) address concerns that Free File members could engage in cross-marketing or cross-selling of commercial products or services in connection with the taxpayer’s participation in Free File.

*[Paragraph 4.33.4 in the existing MOU would be struck, and a new paragraph with these requirements above would be added.]*

- **Returning Free File taxpayers’ first option must be Free File.** If a Free File taxpayer returns to a member’s commercial website the year after obtaining the member’s Free File services, and logs into an account registered with that member, the taxpayer must be given a first option to use the member’s current year Free File offer before receiving offers, if any, for its publicly available commercial products or services. The FFI, in consultation with IRS, will prescribe the requirements of this uniform communication to the taxpayer, e.g., the text, prominence and clarity, to minimize the chance for any taxpayer confusion, and so that taxpayers can clearly direct their wishes and preference.

The intent of this improvement is to ensure that a taxpayer who comes to a member through Free File is first directed to Free File in the following year.

*[Existing Paragraph 4.15 would be deleted, and a new Paragraph regarding “Returning Free File tax filers” would be incorporated in its place.]*

- **Strengthening the Free File review process.** Free File members believe that the review process to ensure compliance with the requirements contained in the Operating Agreement and MOU can be made more effective and transparent by updating the review process to include: 1) a pre-filing season review, with the ability to remediate any deficiencies found; 2) a second review in January to ensure that remediation, if necessary, has occurred; and 3) a third, random review that is unannounced in tax season to help ensure in-season compliance. The intent of this improvement is to address concerns about the oversight and enforcement of Free File requirements.

*[A new Paragraph 4.29.1 would be added to provide for this review process.]*

- **Taxpayers who are ineligible for a Free File offer must be provided the first option of returning to the IRS Free File Landing Page.** When a taxpayer learns that he or she is not eligible for a member’s Free File offer, he or she must – as a first option – be given the opportunity to return to the IRS Free File Program webpage so that he or she may consider alternative Free File service offers, including but not limited to the Free File Fillable Form. A member may then choose to offer the taxpayer a free federal return, even if he or she doesn’t qualify, provided that the taxpayer is “covered” by the Program limit of being among the lowest 70 percent of taxpayers. Finally, consistent with the current MOU, a taxpayer may choose to continue to complete and file a federal and/or state return for a fee, which is fully disclosed. This proposal is intended to address the misleading suggestion that Free File is somehow designed to “upsell” taxpayers to use commercial products or services. Since that is not the case, this proposal would address concerns about it.

*[This recommended improvement would be added as a new Paragraph in the MOU.]*

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In return for these significant and valuable enhancements in the Free File Program, the Free File, Inc., requests that the current Program be extended for one year to October 31, 2021. This one-year extension would have the additional benefit of removing consideration of another Memorandum of Understanding from an election year.